IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 83 OF 2005

Shriniwas Ashok Thale. ...Petitioner
V/s.
State of Maharashtra & Ors. ...Respondents

Mr.R.K. Mendadkar for Petitioner.
Mr.R.S. Apte for Respondent No.3.
Mr.S.G. Sonawane for Respondents No.1, 2 and 4.

CORAM : F.I. REBELLO AND SMT.R.S. DALVI, JJ.

DATED : NOVEMBER 17, 2005

P.C. :-

. Rule. Heard forthwith.

2. The petitioner had applied for appointment as belonging to notified Scheduled Tribe viz. Mahadeo Koli. Though he has been selected, he has not yet been appointed as his tribe certificate has to be ascertained. The Scrutiny committee on considering the petitioner's application by its order dated 2nd August, 2004 was pleased to reject the same on the ground that the pre-presidential notification would indicate that the relatives of the petitioners including real grandfather's tribe was shown as Do-Koli. It is only

these two documents of his father's cousin of year 1967 and 1972 which show as Mahadeo Koli which cannot be considered. We, therefore, do not find any error apparent on the face of record in the decision of the Scrutiny Committee rejecting the petitioner's claim as belonging to Mahadeo Koli Scheduled Tribe. It was sought to be contended on behalf of the petitioner that Do-Koli and Mahadeo Koli are the same. Considering the judgment of the Apex Court in the case of **State of Maharashtra Vs. Milind and Ors. (2001) 1 SCC page 4,** it is not permissible for this Court to do that exercise.

3. However, if Do-Koli and/or Dongar Koli is also a notified Scheduled Tribe, it is open to the petitioner to move the competent authority for tribe certificate. If the petitioner applies within four weeks from today, the competent authority to issue the tribe certificate if the petitioner fulfils the requirement within four weeks thereafter. On receipt of the said certificate, the petitioner to submit the same to respondent no.3 within the period of two weeks thereafter. Respondent

no.3 within two weeks thereafter to forward the same to respondent no.2. Respondent No.2 within four months thereafter to decide the tribe validity of the petitioner. In the event, respondent no.2 validates the certificate, it is for the respondent no.3 to decide whether to issue letter of appointment if there are still vacancies available from the list which was prepared at the time the petitioner was selected. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(SMT.R.S. DALVI, J.)